

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES STEPHEN MOORE,

Petitioner,

v.

JAMEY LUTHER,

Respondent.

Civil Action No. 2:19-cv-1127

Hon. William S. Stickman IV

Hon. Lisa Pupo Lenihan

ORDER OF COURT

James Stephen Moore (“Petitioner”) filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on August 19, 2019.¹ (ECF No. 1). Respondent filed an Answer on April 7, 2020. (ECF No. 15). After receiving extensions of time, Petitioner filed a Reply on September 3, 2020. (ECF No. 23). A Report and Recommendation was issued by United States Magistrate Judge Lisa Pupo Lenihan on August 11, 2021, recommending that the Court deny the Petition as well as deny a certificate of appealability on all claims. (ECF No. 24). Petitioner was originally given until August 30, 2021 to file Objections. (ECF No. 24). This Court granted him an extension until October 14, 2021. (ECF No. 27).

To date, Petitioner has filed no Objections. Therefore, the Court hereby ADOPTS Magistrate Judge Lenihan’s Report and Recommendation as its Opinion. It concurs with her legal analysis and conclusions.

AND NOW, this 26th day of October 2021, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (ECF No. 1) is DISMISSED with prejudice without an evidentiary

¹ This is the filing date pursuant to the prison mailbox rule. *See Houston v. Lack*, 487 U.S. 266 (1988).

hearing. A certificate of appealability is DENIED as jurists of reason would not find it debatable that each of Petitioner's claims lack merit.²

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

A handwritten signature in dark ink, appearing to read "W. S. Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

² A certificate of appealability may issue only upon “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A petitioner must “demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Lambert v. Blackwell*, 387 F.3d 210, 230 (3d Cir. 2004). The Court agrees with Magistrate Judge Lenihan that there is no probable cause to issue such a certificate in this action.